



February 18, 2021

RE: **HB 5952 – An Act Eliminating Undue Delay in the Payment of Workers’ Compensation Awards**

Dear Members of the Labor and Public Employees Committee:

I serve as General Counsel for the Insurance Association of Connecticut (“IAC”), a state-based trade association for Connecticut’s insurance industry. Thank you for the opportunity to offer comment in opposition to **HB 5952 – An Act Eliminating Undue Delay in the Payment of Workers’ Compensation Awards**. We respectfully submit that undue delay rarely occurs and that remedies currently available under the Workers’ Compensation Act (“Act”) are appropriate to address those limited occasions.

Proposals to change or expand remedies currently available under the Act should only be considered if objective evidence indicates that (1) undue delay is a pervasive issue, (2) remedies currently available under the Act are being utilized on a regular basis, and (3) remedies currently available are inadequate. The evidence provided to date fails to establish that this is the case.

Approximately one year ago, a Task Force To Study Remedies and Potential Liability for Unreasonably Contested or Delayed Workers’ Compensation Claims met extensively and discussed the issue of undue delay exhaustively. This task force was comprised of representatives of claimants as well as defendants. Members also included physicians, injured workers, and Connecticut Commissioners or their designees from the Workers’ Compensation Commission (“Commission”), the Department of Insurance, the Department of Social Services, and the Department of Administrative Services.

Pursuant to [SA 19-10](#), this task force was charged with studying the issue of undue delay as it pertains to the investigation, adjudication and administration of workers’ compensation claims filed with the Commission. Objective data presented to the task force by the Commission indicated that undue delay occurs on an infrequent basis.

2019 claim data made available by the Commission is as follows:

- A total of 24,121 workers' compensation claims were filed in 2019. Of those claims:
 - 77.8% were administered without the need for a single hearing;
 - 6.5% of those claims necessitated only one hearing; and
 - 15.7% required more than one hearing.
- A total of 52,038 hearings were held in 2019 (inclusive of informal, pre-formal and formal hearings), and only 2.2% of those hearings had undue delay as a noticed issue.
- Of the 90 formal hearings that were scheduled with undue delay as a noticed issue, only 29 went forward (.05% of hearings held) and of those only 4 were completed (.007%). Furthermore, only 2 formals that were completed resulted in awards based on undue delay.

Evidence also demonstrated that while remedies currently available under the Act are appropriate, they are rarely utilized. Claimant attorneys who served on the task force and claimant attorneys who testified before the task force acknowledged that undue delay is rarely claimed as an issue for a hearing. They further acknowledged that though several remedies¹ are

¹ Commissioners have broad authority to order fines and penalties under:

· C.G.S. §31-288(b)(1) which provides "whenever through the fault or neglect of an employer or insurer, the adjustment or payment of compensation due under this chapter is unduly delayed, such employer or insurer may be assessed by the commissioner hearing the claim a civil penalty of not more than one thousand dollars for each such case of delay, to be paid to the claimant";

· C.G.S. §31-288(b)(2) which provides "whenever either party to a claim under this chapter has unreasonably, and without good cause, delayed the completion of the hearings on such claim, the delaying party or parties may be assessed a civil penalty of not more than five hundred dollars by the commissioner hearing the claim for each such case of delay";

· C.G.S. §31-300 in "cases where, through the fault or neglect of the employer or insurer, adjustments of compensation have been unduly delayed, or where through such fault or neglect, payments have been unduly delayed, the commissioner may include in the award interest at the rate prescribed in section 37-3a and a reasonable attorney's fee in the case of undue delay in adjustments of compensation and may include in the award in the case of undue delay in payments of compensation, interest at twelve per cent per annum and a reasonable attorney's fee"; and

· C.G.S. §31-303 which provides "payments agreed to under a voluntary agreement shall commence on or before the twentieth day from the date of agreement. Payments due under an award shall commence on or before the twentieth day from the date of such award. Payments due from the Second Injury Fund shall be payable on or before the twentieth business day after receipt of a fully executed agreement. Any employer who fails to pay within the prescribed time limitations of this section shall pay a penalty for each late payment, in the amount of twenty per cent of such payment, in addition to any other interest or penalty imposed pursuant to the provisions of this chapter".

currently available under the Act, concerns regarding undue delay are often addressed and resolved without the need for a hearing.

The Commission's data shows that when the issue of undue delay was added to a hearing, more than 50% of the time it was added by a Commissioner, as opposed to the claimant or claimant's counsel. This not only suggests that Commissioners are well aware of the issue and prepared to adjudicate it when appropriate, but it also calls the legitimacy of complaints of claimants and claimants' counsel into question.

As such, we strongly oppose any proposed legislation aimed at addressing undue delay and caution this committee on passing legislation that may cause more harm than good to a system which, by objective measures, is working efficiently and effectively.

Thank you for the opportunity to offer comment on HB 5952.

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Insurance Association of Connecticut
